G.R.S. IX—5]

Previous references. J. dy. No. 1158-21.

1922 (Cl.)

File No. 201-22

Serial Nos. 1-2

Later references. Pols 23-26 (1-7) preserve

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Jus

Part B for April 1923

SUBJECT

Memorial for mercy by Kutchappa accused sentenced to death in Bangalore Session case no. 11 of 1922-23.

S(2) To The Registrar, Chief Court.

No. P 10340 of 21.4.23.

Forwarded copy of order passed by H.H. the Maharaja of Mysore on the memorial commuting the sentence of death passed on Kutchappa to one of transportation for life.

Printed on the Multigraph.

Hon Mysore Division 10/5/23

4597/P 1/2

G. R. S. 11] 191

GENERAL AND REVENUE SECRETARIAT.

(Cl)

NOTES.

File No. 201-22

FILE HEADING.

Memorial of Hutchabba for mercy, under sentence of death

From The Sessions Judge, Chief Court.

No. 728 Dated 8-3-23 Received 9-3-23

Diary No.	Enclos.	Spare Copies.	Serial No.
4597	1 file		1

BRIEF ABSTRACT OF LETTER.

Forwarding a memorial for mercy addressed to H.E. the Viceroy by Hutchabba accused in Bangalore Sessions C No. 11 of 22-23 & appellant in Cri. appeal No. 89 of 22-23 on the file of Cr. Revn. Case No. 6 of the Chief Court together with the records.

NOTES AND ORDERS.

Submitted

10/3/23

10/3

2) This is a case in which the accused Hutchabba, an old man of 90 years stands charged with the murder

Memorialist's age is 65 years.

Notes—First Sheet.

Serial No.

of his youngest son & his eldest daughter-in-law by mixing poison in rasi flour intended for the preparation of their daily food & sentenced to undergo the extreme penalty of the law.

2) The facts of the case are as follows:-

The accused had a quarrel with his four sons & entered into an agreement with them whereby he gave up his rights over the house in their favour on their undertaking to redeem the debts of the family & to feed him or pay him Rs 5 for his maintenance. As they failed to fulfil the above promise, he maintained himself for some time by staying with his relatives & then returned & demanded his maintenance charges & insisted upon his living in a portion of the house. As this did not meet with their approval, it gave room for quarrels with his sons & daughter-in-law, with the result that the feelings between them became so estranged that he conceived of the idea of putting an end to their lives. With this object in view, he approached one Kadiya Venkata, reputed for his witchcraft & secured some poison from him & mixed the same in the rasi flour with the consequence that his youngest son & the wife of his eldest son who partook of the food prepared out of it, expired.

Serial No.

4) the medical evidence, substantiated by the certificate granted by the Chemical Examiner proves beyond doubt that death was due to poisoning.

5) The accused admits having mixed a white powder given to him by Madga Venkata but contends that it was to dare not with the object of putting an end to their lives but with a view to bring them round & make them love him. This contention is in direct contradiction to the confessional statement made by him before the Special Magistrate, Chirala wherein he has deposed to the effect that the above Venkata gave him to understand that death would be the consequence of administering the powder. Granting for the sake of argument that he honestly believed that the powder had no such fatal effect, his subsequent conduct does not speak for in his favour. Even after the death of his daughter-in-law, he never divulged the secret to anybody, nor did he take any steps to have his youngest son, who was suffering from its effects, treated. The relationship between him & his son & daughter-in-law was so bitter that he thought of this means of bringing about their death, ~~blind~~ perfectly blind

Serial No.

to all consequences. One is lead strongly to think whether a father, however cruel he might be, would ever think, for a moment, of killing his own son. Though affection to one's own child is a sufficient proof in most cases, there are certain types of humanity whose temperament is such whose heart is so hard that they will not flinch at doing anything but for the sake of satisfying their bestial passions & cruel desires.

6) Though there are no extenuating circumstances to justify any concern being shown, still considering his old age it is a point for consideration whether the sentence may not be commuted to one of transportation for life or imprisonment till the death.

Gen. Dept. 11/8

7) There are no extenuating circumstances really so called but the accused may be said to have a legitimate grievance in that his wants were not attended to when he became old and feeble

Serial No.

carrying capacity particularly as his sons obtained permission on the property he possessed in the premises maintaining him. Having no such grievance his motive may be said to have become unhinged but it may perhaps be dangerous to take cognizance of mental unhealthiness with regard to the criminality of an individual

Sd
12.3.15

5972/1915

2nd member

I am unable to believe that Ang is accused man that Ang is Prosecution. The accused is an old man of 80 years of age and is a widower. It is not likely that he would have attempted or even desired the extermination of his family consisting of two sons because he was ill treated by them and turned out of his house. It is more probable that he attempted to win back their affection by an appeal to witchcraft. Had he known that the powder which was given to him

Serial No.

by his Hadiya for his purpose contained arsenic as it did he would not have ~~used~~ taken part in his raji Nill. as he often would have been taken by all his members of his family & when his younger brother will despised towards him. He would not have paid Rs 6 for a small quantity of arsenic if his intention was to poison his An and not to win back his affection. I would therefore recommend his release & death being considered due & have pertaining for life.

Sd/ 15/3

9) Case can now be disposed of by cancelling with his approval of the Dewan.

Sd/ 16.3.23

Dewan)

10) I agree. May be disposed of by cancelling.

Sd/ 17.3.23

Chief Secy with Compts

Sd/ 27.3.23

111 cancelled 27/3.

Sd/ 27.3.

DEWAN'S OFFICE,
Received on 17 1923
No. 5438

Vide letter issued herewith

Sd/

Sd/ 28/3/23

NOTE—Contn. sheet.

(For Disposal by Circulation

No. C. 418

8 19.22-3

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Memorial for mercy by Hutchappa accused sentenced to death in Bangalore Sessions Case No.11 of 1922-23.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

29th March 19.23. *Chief Secretary to Government.*

Extraordinary Member of Council.

7894-767
29.3.23

First Member of Council. Opinion recorded
31.3.23

Second Member of Council. Seen.

Third Member of Council. 13) Submitted to 2nd Member

S.N. Subbarao
General 3/4

14) The Members final note is placed in the file
31.3.23

Final Note by the Second Member of Council.

Subject:—

Memorial for mercy by Hutchappa accused sentenced to death in Bangalore Sessions Case No. 11 of 1922-1923.

---

15) The memorialist was convicted by the Sessions Judge, Bangalore Division, of the murder of his son Eriah and his daughter-in-law Revakka, the wife of his another son named Revanna, and was sentenced to death in Bangalore Sessions Case No. 11 of 1922-23. The conviction and sentence having been confirmed by the Chief Court on appeal he has now submitted a memorial to His Highness praying for clemency.

16) The memorialist does not dispute the main facts of the case viz., that he was on bad terms with his sons on account of the latters' refusal to maintain him, that he put some white powder in the ragi mill in use in the house and that his son and daughter-in-law named above died by partaking of the food prepared from ragi flour ground in that mill. The case for the prosecution is that he deliberately intended to introduce arsenic into their food in order to get rid of his sons against whom he bore ill-feeling, while he pleads that he put the powder in the mill, not knowing that it was arsenic, on the advice of one Madigar Venkata who gave it to him and told him that whoever ate the food prepared from the ragi flour ground in that mill would vomit and purge and then become amenable to his will.

17) When the papers came before me I recorded the following minute:-

Pages 5 & 6 of Office Notes

"I am more inclined to believe the story of the accused than that of the Prosecution. The accused is an old man of 65 years of age and is a widower. It is not likely that he would have attempted or even desired the extinction of his family consisting of four sons simply because he was ill-treated by them and turned out of his house

It is more probable that he attempted to win back their affection by resort to witch-craft. Had he known that the powder which was given to him by the Madiga for the purpose contained arsenic as it did, he would not have put it in the ragi mill as the flour would have been eaten by all the members of the family some of whom, the junior members were well disposed towards him. Further, he would not have paid Rs.6 for a small quantity of arsenic if his intention was to poison his son and not to win back his affection. I would therefore recommend the sentence of death being commuted to one of transportation for life".

Page 627 of Office Note

19/ The Dewan and the First Member of Council agree in this view.

20/ In consideration of the circumstances of the case His Highness may be graciously pleased to commute the sentence of death passed upon the memorialist to one of transportation for life.

Bangalore,
4th April 1923.

MEMBER OF COUNCIL.

G. R. S. IV—6]

Submitted to His Highness.

21/ *I submit herewith a Final Note by the* SECOND *Member of Council on the subject of* Memorial for mercy by Hutchappa accused sentenced to death in Bangalore Sessions Case No. 11 of 1922-23. *for His Highness' gracious approval.*

Dewan.

4 APR 1923

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Commutation of the sentence of death passed upon Hutchappa to one of transportation for life.

796

Order.

22/ KRM
5/4/23

Edl Secy
4

3 APR 1923

G. R. S. III-2]

4597/P C 418 (63

General and Revenue Secretariat. | File No. of 192.

Serial No.

Memorial for mercy by Hut Chappa accused sentenced to death in Bangalore Sessions Case No. 11 of 1922-3.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

23) Circulated to the Members of Council for perusal of His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

6/4/23

Chief Secretary to Govt.

Through the Secretary to Government,
....General....Department.

8239-265
9.4.23

24)

FIRST MEMBER OF COUNCIL.

10.4.23

109
6.4.23

25)

SECOND MEMBER OF COUNCIL.

9/4

THIRD MEMBER OF COUNCIL.

27) The Asst Secy. Protection

NOTE—Contn. sheet.

Mono WD 1335—GPB—500—16-1-23.

Draft Letter
12/4/23

28) Draft Letter cag 14/4

5 4/4

4597/P

G. R. S. III-2.

General and Revenue Secretariat.

File No. 201 of 19 22

Serial No.

DEWAN'S OFFICE
Regd. on 13 1923
Reg. No. 6010

30) The usual Draft & fair for the Dewans signature & adrast to the Reg, chief court are putup. 31) for favour of Signature

Add 13/4 Dewan)

Cag 13/4

32) 13/4

33) Issue after inserting the 14th April as the date from which Commutation is to count. Sometimes this is omitted & the Chief Court have had to point this out.

Cag 14/4

34) The reprieve papers — G. Dep. 1158-R — are put up. 14th April may be entered in both the Draft & fair under the signature of the Dewan

Add 20/4.

34) Issue Cag 20/4

Please put up the file in which reference was received from the Reg in a similar case & also the file in which the Dewan's approval was mentioned in the order

Add 14/4

The Repr. Ch Ct
No. P. 10340 of 21-4-23
Commutes the Sentence of death to one of transportation for life

Note—Contn. sheet.

3319

No. 728 of 8.3.1923.

4597
P

Enclosures: Six files of two records and memorial with copy of judgment.

Bangalore,

Dated 3rd March 1923.
8.3.1923.

9 - MAR 1923

From

THE REGISTRAR OF THE
CHIEF COURT OF MYSORE.

To

THE SECRETARY TO GOVERNMENT,
GENERAL ~~AND REVENUE~~ DEPARTMENTS.

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Hutchappa .....accused in Bangalore .....Sessions Case No. 11 of 1922-23.....on the file of the Sessions Judge of.....Bangalore Division and appellant in Criminal Appeal No. 89 of 1922-23.....on the file of this Court.
Cr.Referred case No.6 of 1922-23

The entire record of the case is herewith forwarded.

I have the honor to be,
Sir,
Your most obedient servant,

Registrar.
5731/23

GPB—1,000—16-8-12

Rc. 628
Urgent

సేవ్రీ మీరు చెప్పిన ప్రకారం మా శ్రీ రంగ్ పంపారు ఆ డాక్యుమెంట్ చదువుకున్నారు. చి.వి. బాగుంది. మీ అబ్బాయి పంపారా లేదా తెలియజేయగలరు.

సేవ్రీ మీరు చూసిన ప్రకారం మీ ఇంట్లో కూడా బాగా శ్రీ విజయ లక్ష్మి 82 22-23 లక్షల్లో ప్రతిభ చూపి, మన పిల్లలు కూడా ఇంకా బాగా చదివి మంచి మార్కులు తెచ్చుకోవాలి.

భవదీయులు
చదువరి.

ఇట్లు
మీ ఆత్మీయ మిత్రులు
శ్రీలు జ్యోతిలక్ష్మి లు 9908
వి.వం. జ్యోతి. రు బెజ్జం పాలు.

పంపకాశ్రీ చెప్పు. నాకు ఈ ప్రశ్నలు చూడగానే ప్రశ్నలన్నీ చాలా ఈజీగా కనిపించాయి. ఈ మాదిరి కొంచెం కష్టమైన ప్రశ్నలు వస్తే తీయడం కష్టమవుతుంది. నిన్న ఉపాధ్యాయులు చెప్పిన విధంగా నాకు మార్కులు వచ్చాయి. ఆ విధంగా ఇవ్వకపోతే నాకు మార్కులు తగ్గిపోతాయి. నాకు మీరంటే చాలా ఇష్టం. మీరు ఎప్పుడూ నాకు ఇలాంటి ప్రశ్నలు ఇవ్వాలి. ఇలాంటి ప్రశ్నలు ఇవ్వడం వల్ల నాకు ఎంతో ఉపయోగంగా ఉంటుంది

[illegible]

Superintendent
1.3.23
B.C. Jail.

Left thumb mark
of Hutchappa pr no 9908

A Mukharjimalla
Chief Jailor
B.C. Jail

1/3/23

Fli

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Thursday the 22nd day of February 1923

P R E S E N T

RAJADHARMA PRAVINA K.S. CHANDRASEKHARA AIYAR, CHIEF JUDGE

a n d

MR. JUSTICE B. S U B B A N N A.

Petition of Criminal Appeal No.89 of 1922-23 /Criminal Referred Case No.6 of 1922-23 against the conviction and sentence passed by the Sessions Judge of Bangalore under section 302 of the Indian Penal Code in Bangalore Sessions Case No.11 of 1922-23. : Appellant. Hutchappa. (accused).

J U D G M E N T

The case against the accused Hutchappa is a clear, indeed a conclusive, one. He has himself admitted all along that he put a white powder given him by the prosecution 1st witness Venkata, in the ragi mill, that his daughter-in-law Revakka ground ragi in that mill, and prepared food from the flour, and that as the result of the partaking it she and his youngest son Era vomited and purged severely and eventually died while another young boy after suffering badly

badly ~~got~~ over the effects. The chemical examination of the vomitings, excreta, and ~~body~~ organs of the deceased persons leaves no doubt that they died of the results of arsenical poisoning.

The only question is whether the accused was or was not aware of the poisonous nature of the pounded powder which he put into the mill, and whether he did or not intend that those who partook of the ragi prepared in the mill thereafter should die as the result of doing so.

There is no doubt that he was on very bad terms with his elder sons and with the deceased Revamma the wife of his eldest son; ~~accordingly~~ according to him, they ill treated him and refused to maintain him, while Revamma used foul language towards him. It is difficult, therefore, to believe his later protestations of ignorance as to the nature of his act, or that he merely wanted to "bring them round." His earliest statement, Exhibit P1, made on the day after the occurrence, shows beyond a doubt that he knew that the powder would cause death: he says that madigar Venkata told him that those who ate it would die. This is in all probability the truth. The fact that he took care to conceal the rest of the ragi ball is clear indication of guilty knowledge; seeing that this was done after the victims were in the throes of their death agony, ~~his daughter~~ his explanation that he ~~knew~~ threw it ~~was~~ away lest some one may eat it sounds absurd. The evidence of Madigar Venkata prosecution 1st witness supports the accused's earlier statement and shows that the accused took the powder from him with intent to kill his son and daughter-in-law since the ~~later~~ earlier use of witchcraft was not effective, though (in order probably to screen himself from prosecution) the witness adds that the ac-

cused

accused took some rat poison from him saying he wanted it to kill rats.

We agree with the Sessions Judge that the accused did the act with deliberate intent to cause death. He has therefore been rightly convicted of murder; and in the absence of circumstances which can properly be deemed to extenuate the crime the sentence of death is a proper one and we confirm it. The appeal is dismissed.

sd/- R.S. Chandrasekhara Ayyar

CHIEF JUDGE.

sd/- B Subbiah

JUDGE.

"Copy"

AV.

G. R. S. VI—S-III/33]

DRAFT.

SUBJECT.....

.....

.....

Section. 665
File No. 201-22
Serial No. 2

No. C 10340

Diary No. of letter replied to. 1557

To

over Records

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

the.....*191*

Date of issue..... 21/4/23

Signed by.....

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner..... Hutchappa accused sentenced to death in Bangalore Lepers case II of 1922-23 ~~undergoing sentence of~~..... ~~and pending execution of the sentence~~ ~~in the Central Jail, Bangalore~~ copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorial commuting the sentence of death to one of transportation for life.

2. The entire records received with your letter No. 728 dated 8.3.23 191 are herewith returned.

I have, etc.,

Chief Secretary.

12/4/23

Encl. 15 & 2

(22

G. R. S. VII—S-III/34]

In the Matter of a Memorial

for mercy by Hutchappa, accused
sentenced to death in Bangalore
Sessions Case no 11 of 1922-1923

His Highness the Maharaja

has been pleased to

commute the sentence of death passed
upon him to one of transportation for
life.

Draft

Dewan.
14th April 1923

WD 02264—GPB—500—5-2-17